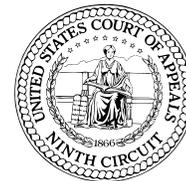




Office of the Clerk  
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
95 Seventh Street  
Post Office Box 193939  
San Francisco, California 94119-3939



Cathy A. Catterson  
Clerk of Court

(415) 556-9800

October 18, 2004

Notice and Opportunity for Comment on  
Proposed Amendments to the Circuit Rules

Pursuant to 28 U.S.C. § 2071(b), comments are invited on proposed amendments to the Circuit Rules. New and/or amended language is in bold print, language to be deleted is noted with stricken lines. Comments should be submitted to Cathy A. Catterson, Clerk of Court/Circuit Court Executive, no later than **November 19, 2004**.

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Circuit Rule 17-1  
Excerpts of Record on Review or Enforcement of Agency Orders

**17-1.3 Parties Exempted from Excerpts Requirement**

**(a) Unrepresented Parties: Petitioners and respondents proceeding without counsel need not file excerpts, supplemental excerpts and further excerpts of record.**

**(b) Petitioners challenging a Board of Immigration Appeals order need not file the excerpts and further excerpts; respondent need not file supplemental excerpts.**

17-1.34 Required Contents of the Excerpts of Record

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(b) In addition to the items required by Circuit Rule 17-1.3(a), where the petition seeks review of an agency adjudication regarding ~~immigration~~ or the grant or denial of benefits, the excerpts of record shall also include the entire reporter's transcript of proceedings before ~~the immigration judge~~ or the administrative law judge.

*Purpose of Amendments:* (1) Facilitate pro se litigants' access to courts by way of reducing technical requirements and (2) abrogate unnecessary requirement in immigration cases given agency's provision of full record.

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Circuit Rules 15-4, 27-8 and 28-2  
Petitions for Review/Required Recitals in Motions/Contents of Briefs

**Circuit Rule 15-4**  
**Petitions for Review of Board of Immigration Appeals Decisions**

**A petition for review of a Board of Immigration Appeals decision shall state whether petitioner is detained in the custody of the Department of Homeland Security. The petition shall be filed in an original and seven copies.**

Circuit Rule 27-8  
Required Recitals in Criminal **and Immigration** Cases

**27-8.1 Criminal Cases**

Every motion in a criminal appeal shall recite any previous application for the relief sought and the bail status of the defendant.

**27-8.2 Immigration Petitions**

**Every motion in a petition for review of a decision of the Board of Immigration Appeals shall recite any previous application for the relief sought and inform the court if petitioner is detained in the custody of the Department of Homeland Security.**

**Circuit Rule 28-2**

**Contents of Briefs**

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**28-2.4 Bail/Detention Status**

**(a)** The opening brief in a criminal appeal shall contain a statement as to the bail status of the defendant. If the defendant is in custody, the projected release date should be included.

**(b)** The opening brief in a petition for review of a decision of the Board of Immigration Appeals shall state whether petitioner is detained in the custody of the

## Department of Homeland Security.

*Purpose of Amendments:* Elicit information necessary to permit the Court to prioritize consideration of immigration cases where petitioner is in detention; formalize copy requirement for petitions for review.

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### Circuit Rule 30-1 Excerpts of Record

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### 30-1.2 Unrepresented Litigants

**Appellants and appellees proceedings without counsel need not file the excerpts, supplemental excerpts and further excerpts of record described in this section.**

*Purpose of Amendment:* Facilitate pro se litigants' access to the Court by way of eliminating non-essential technical requirement.

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### Circuit Rule 31-1 Number of Briefs

In lieu of the 25 copies required by FRAP 31(b), an original and 15 copies of each brief shall be filed. If a ~~petition suggestion~~ for hearing or rehearing is granted, each party shall file 20 additional copies of its briefs. The appellant shall also file 20 additional copies of the excerpts of record.

Any party ~~proceeding in forma pauperis~~ and not represented by counsel shall file only an original and 7 copies of briefs.

*Purpose of Amendment:* Facilitate pro se litigants' access to the Court by way of eliminating non-essential technical requirement.

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Circuit Rule 39-1  
Costs and Attorney Fees on Appeal

39-1.1 ~~Support for~~ Bill of Costs

The itemized and verified bills of costs required by FRAP 39(e) shall be submitted on the standard form provided by this court. It shall include the following information:

- (1) The number of copies of the briefs or ~~other documents~~ **excerpts of record** reproduced; and
- (2) The actual cost per page for each document.

39-1.2 Number of Briefs and Excerpts

**When a party is required to file 15 copies of a brief, [c]osts will be allowed for 18 copies of each brief plus 2 copies for each party to be served, unless the Court shall direct a greater number of briefs to be filed than required under Circuit Rule 31-1. When a party is permitted to file a lesser number of copies of a brief, costs will be allowed for the required number of copies of each brief plus 2 copies for each party to be served, unless the Court shall direct a greater number of briefs to be filed than required under Circuit Rule 31-1.**

39-1.3 Cost of Reproduction

In taxing costs for ~~printing or~~ photocopying documents, the clerk shall tax costs at a rate not to exceed ~~twenty (20)~~ **ten (10)** cents per page, or at actual cost, whichever shall be less.

....

**CIRCUIT ADVISORY COMMITTEE NOTE TO RULE 39-1.6**

***Calculation of Filing Deadline:*** Litigants are reminded that a cost bill must be received by the Clerk in San Francisco by the due date. *See Federal Rule of Appellate Procedure 25(a)(1) and (2)(A) and Circuit Rule 25-2; but see Federal Rule of Appellate Procedure 25(a)(2)(C) (document filed by inmate timely if deposited in institution's internal mailing system on or before due date). The deadline is strictly enforced. See Mollura v. Miller, 621 F.2d 334 (9th Cir. 1980).*

*Purpose of Amendments:* Clarify that scope of costs requested in this court confined to reproduction of brief and excerpts; reduce reimbursement rate to market rate; eliminate antiquated references to printers and printer's bills; emphasize importance of timely filing.

**Form 10. Bill of Costs**

**United States Court of Appeals for the Ninth Circuit**

**BILL OF COSTS**

**Note:** If you wish to file a bill of costs, it **MUST** be submitted on this form and filed, with the clerk, with proof of service, within 14 days of the date of entry of judgment, and in accordance with Circuit Rule 39-1. A late bill of costs must be accompanied by a motion showing good cause. Please refer to FRAP 39, 28 U.S.C. § 1920, and Circuit Rule 39-1 when preparing your bill of costs.

v. \_\_\_\_\_ CA No. \_\_\_\_\_

The Clerk is requested to tax the following costs against: \_\_\_\_\_

Cost Taxable under FRAP 39, 28 U.S.C. § 1920, Circuit Rule 39-1	REQUESTED Each Column Must Be Completed				ALLOWED To Be Completed by the Clerk				
	No. of Docs.*	Pages per Doc.	Cost per Page **	TOTAL COST	No. of Docs.	Pages per Doc.	Cost per Page	TOTAL COST	
Excerpt of Record									
Appellant's Brief									
Appellee's Brief									
Appellant's Reply Brief									
Other									
TOTAL				\$	TOTAL				\$

**Other:** Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to Circuit Rule 39-1. Additional items without such supporting statements will not be considered.

Attorneys fees cannot be requested on this form.

\* If more than 7 excerpts or 20 briefs are requested, a statement explaining the excess number must be submitted.

\*\* Costs per page may not exceed .10 ~~.20~~ or actual cost, whichever is less. Circuit Rule 39-1.

I, \_\_\_\_\_, swear under penalty of perjury that the services for which costs are taxed were

actually and necessarily performed, and that the requested costs were actually expended as listed. ~~The printer's itemized statement showing actual costs per page is attached.~~

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Counsel or \_\_\_\_\_

Pro Se Litigant (printed or typed): \_\_\_\_\_

Attorney for: \_\_\_\_\_

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Date: \_\_\_\_\_

Costs are taxed in the amount of

\$ \_\_\_\_\_

Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk